

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JANUARY 9, 1997

Chairman Heavey called the meeting to order at 1:45 p.m. at the Skamania Lodge, Stevenson, Washington.

MEMBERS PRESENT: **EDWARD HEAVEY, Chairman; CURTIS LUDWIG, Vice Chair; LIZ McLAUGHLIN, and KATHLEEN Q. CASEY.**

OTHERS PRESENT: **FRANK MILLER, Director;**
 BEN BISHOP, Deputy Director;
 SHARON TOLTON, Assistant Director, Special Operations;
 SHERRI WINSLOW, Assistant Director, Field Operations;
 CALLY CASS-HEALY, Assistant Director, Licensing;
 CARRIE TELLEFSON, Special Assistant, Public Affairs;
 JONATHAN McCOY, Assistant Attorney General;
 TERRY WESTHOFF, Financial Investigations Unit;
 and SUSAN GREEN, Executive Assistant.

Chairman Heavey introduced the WSGC the staff and Commission members present.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Commissioner Casey moved for approval of the new licenses, changes, withdrawals and tribal certifications; **Commissioner Ludwig** seconded the motion. *Vote taken, motion carried with four aye votes.*

REVIEW OF FRIDAY'S AGENDA

Carrie Tellefson said there are two rules up for final action tomorrow. One is the starting time for Commission meetings and the other is a rule mandating hearings for slot machine seizures. There are three rules up for discussion, and a commercial amusement games petition is up for discussion and possible filing. The staff has been working with the petitioner for many months and supports the petition for the most part. There is one rule the staff will be asking to file on bingo gift certificates. The staff requests an addendum to tomorrow's agenda; the approval of two card room contracts, for Runlee, Inc., and TLR, Inc., in La Center, Washington.

Chairman Heavey asked if there is any objection to adding these contracts to tomorrow's agenda; no one objected.

MANUFACTURER LICENSE APPLICATION

F&F Holdings Corp., d/b/a GEMACO Playing Card Company

Terry Westhoff said he is a special agent in the Financial Investigations Unit (FIU). This is the license report for F&F Holdings Incorporated, d/b/a GEMACO Playing Card Company. The company has a class "D" manufacturer license for the sale of playing cards in Washington state. GEMACO has a manufacturing facility in Blue Springs, Missouri, where it maintains all corporate and financial records for the parent and subsidiary companies. The corporate officers for GEMACO are Curtis L. Fitzhugh, who is the President and Secretary, and Robert E. Foster, who is the Vice President of Manufacturing. GEMACO Playing Card Company was incorporated in the state of Missouri on March 25, 1965. Company shares are not publicly traded and 100 percent of the shares are owned by F&F Holdings. The company is registered with the Washington Secretary of State.

The parent company, F&F Holdings, was incorporated in the state of Missouri on November 5, 1991. All shares of the corporation are owned by Curtis L. Fitzhugh, the president of both companies. The registered agent in

Washington State is Jack Caskey, CT Corporation System in Seattle. The manufacturer representative for the organization is Jason A. Fitzhugh. He is the western sales manager and the son of the president. He is located in Las Vegas, Nevada.

The company holds gambling licenses in eight other states and with several tribes. FIU staff contacted the jurisdictions to verify GEMACO's license was in good standing and that they were not under investigation in any of the jurisdictions in which they are licensed. No adverse information was noted. Criminal and personal history background checks were completed on all of GEMACO's officers and their spouses. No disqualifying information was noted. FIU staff reviewed corporate documents, financial records, and ownership records to verify the information provided on the license application was true and accurate. Nothing out of the ordinary was noted during the review. In addition, the company's manufacturing process was observed and documented. No part of the manufacturing process was performed by a subcontractor or unlicensed vendor, and security was adequately maintained over the product. No other unusual items were noted in the investigation.

At the conclusion of the examination, FIU staff informed the applicant of the record keeping requirements for manufacturers and discussed the licensing process. F&F Holdings, Inc., purchased the stock of George C. Matteson Company, Inc., in November 1991 for \$4,250,000. The source of funds for the purchase was a loan from Midland Bank of Kansas. This source was verified and no exceptions were noted. Based on the review of the application and financial documents, no items were noted that would preclude F&F Holdings, Inc., d/b/a GEMACO Playing Card Company, from qualifying for a gambling license in Washington State. Based on this investigation, the staff recommends licensure of F&F Holdings Inc., d/b/a GEMACO Playing Card Company, as a playing card manufacturer. **Mr. Westhoff** asked if there were any questions at this time.

Chairman Heavey asked if there is anyone present from the company or if there was anyone present who wished to address the Commission on this issue. No one came forward. **Commissioner Casey** moved for approval of F&F Holdings, Inc., d/b/a GEMACO Playing Card Company, as a manufacturer. **Commissioner McLaughlin** seconded the motion. *Vote carried, motion carried with four aye votes.*

QUALIFICATION REVIEWS

Boys & Girls Clubs of Tacoma/Pierce County

Mr. Westhoff said the organization was formed in 1965 and their mission is to enable youth to develop and achieve their potential as human beings. The club is dedicated to promoting the social, health and physical education, character, and vocational development of children, ages six to eighteen. Licensed since 1979, the organization is governed by a board of 152 voting members including 19 officers, who conducted one general membership meeting and 12 board meetings during the last fiscal year. Boys & Girls Clubs of Tacoma/Pierce County has a full time executive director, 36 full time employees, 101 part time employees, and 985 volunteers who provide program services. The organization provides six core program service areas. For the year ending December 31, 1995, the club had 5,945 participating members. The average age of club participants was 13 years old. Approximately half of the members come from single parent, low income homes.

Through their educational development programs, the club provides tutoring and homework assistance. In 1994, the estate of Violet Davies left the organization \$225,000, of which the interest earned from these funds is used for educational scholarship programs. The club also provides youth with team athletic and individual physical fitness programs through its health and physical education programs. Team sports include contact football, flag football, and basketball. Individual sports include wrestling, swimming, and martial arts. Meals and snacks, partially subsidized by USDA, are also provided to the organization's members through this program.

The organization's citizenship and leadership development programs develop leadership and recognize youth for their service to the community. The club sponsors field trips where the children visit city and county governments and other civic organizations. The cultural enrichment program provides arts and crafts activities to participants, as well as the opportunity to participate in the Boys and Girls Clubs of America fine arts competitions. The social recreation program recognizes the importance of social interaction in a casual setting. Everyday, the club offers games and activities to encourage and enhance social interaction between children and adults. The outdoor and

environmental education program provides children the opportunity to participate in outdoor activities as well as camp programs.

In response to the 1995 Tacoma curfew ordinance, the club entered into a partnership with the Metropolitan Development Council and the Tacoma Police Department. Youth that violate the ordinance are referred to the club for orientation, and a counselor determines if the child has family issues that can be resolved by intervention and referrals to other human service agencies who may be able to offer assistance. The organization met its net income requirement of 13 percent for its class "J" bingo license by achieving a 13.6 percent net return for the fiscal year ended December 31, 1995. However, for the three quarters ended September 30, 1996, the organization was 1.9 percent below the annual combined net return requirement. More than 60 percent of the organization's gambling proceeds were spent toward providing program services and supporting services expenses were less than 35 percent of functional expenses. The organization did not have excessive reserves.

Based on the staff's analysis, the organization made progress toward accomplishing its stated purposes. Nothing came to the staff's attention that would indicate that the organization is not qualified as a bona fide nonprofit organization for purposes of conducting authorized gambling activities. The staff recommends Boys' and Girls' Club of Tacoma/Pierce County be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Commissioner McLaughlin asked what the reason was for the drop in other gambling income (besides bingo net income) and retail sales from 1994 to 1995. **Mr. Westhoff** said the reason for the pull tab net income decrease is attributed to an increase in competition from the tribal casinos. The organization stated that in 1995, a bingo player spent an average of eight dollars on pull tabs. That is a three dollar decrease from 1994. **Commissioner McLaughlin** asked if prizes are normally 75 percent of the cost of doing business. **Mr. Westhoff** said it depends on the organization. 75.4 percent is within the requirement for that class of organization for prize payouts.

Commissioner Ludwig asked if Mr. Westhoff knows how many of the FTEs are employed in the organization's gambling operation. **Mr. Westhoff** said he doesn't have that information with him, but he can get that for him; **Commissioner Ludwig** said that isn't necessary, but he noted that total salaries are about \$167,000 and the manager gets about \$50,000 of that. He asked Mr. Westhoff if that seemed right to him. **Mr. Westhoff** said yes, that for a class J bingo operation, the organization is doing well. This means that the manager is doing a very good job. This is a normal salary that the staff sees for such a position.

Commissioner Ludwig moved to adopt the staff's recommendation to approve Boys and Girls Club of Tacoma/Pierce County as a charitable organization and authorized to conduct gambling activities in the state of Washington. **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with four aye votes.*

SEATTLE SKATING CLUB

Mr. Westhoff said the Seattle Skating Club was formed in 1937 in order to provide the facilities and programs to support the local skating community and to promote the sport of figure skating. Licensed since 1974, the organization is governed by a board of 10 members, including 4 officers, who conducted 13 meetings during the last fiscal year. They do not have a full time executive director but instead have an active board which oversees the day-to-day operations of both the programs and the gambling operations. In addition to over 80 volunteers, the organization employs one full time program director and one part time employee who provide program services. The organization has 160 active voting members and 460 member skaters who participate in the organization's programs.

Seattle Skating Club provides approximately 46 hours of ice time per week to member skaters from all over the greater Seattle area. In addition, the club offered several hours of off-ice ballet classes. The ice sessions were divided into six skating disciplines, all of which were tailored to the skaters' ability levels. Additionally, the Seattle Skating Club offered seminars throughout the year. In order to meet the goal of the sports programs listed above, the club maintains a state-of-the-art skating facility, the Olympic View Ice Arena, jointly owned by Seattle Skating Club and Seattle Junior Hockey, under the corporate name of Washington Ice Skating Association (WISA). Because of this joint effort between skating organizations, Seattle Skating Club was able to host the United States

Figure Skating Northwest Regional Championships. Seventy local member skaters competed at this prestigious event. The organization's skaters did very well in the competition, sending 14 skaters on to the next level of competition, with three of those advancing to the United States Figure Skating Association Nationals and three advancing to the Junior Olympics.

Seattle Skating Club met its required combined net return percentage of 17 percent for its class M bingo license by achieving a 18.2 percent net return for the fiscal year ended June 30, 1996. In addition for the three quarters ended September 30, 1996, the organization is in compliance with combined net return requirements. More than 60 percent of the organization's gambling proceeds were spent toward providing program services and supporting services expenses were less than 35 percent of functional expenses. The organization did not have excessive reserves.

Based on the staff's analysis, the organization made progress toward accomplishing its stated purposes. Nothing came to the attention of the Financial Investigations Unit that would indicate the organization is not qualified as a bona fide nonprofit organization for the purpose of conducting authorized gambling activities. The staff recommends that Seattle Skating Club be approved as an athletic organization and authorized to conduct gambling activities in the state of Washington. **Mr. Westhoff** asked if there were any questions.

Commissioner McLaughlin asked about the 1.3 FTEs and the amount of \$240,000 in wages. **Mr. Westhoff** explained that the 1.3 FTEs are for providing program services, the \$240,000 is the wages for the gambling employees.

Commissioner Ludwig asked about the shared ice facility with Seattle Junior Hockey. **Mr. Beadle** of Seattle Junior Hockey answered that they co-own the Olympic View Ice Arena with the Seattle Skating Club. Seattle Junior Hockey also owns Lynnwood Snow King Ice Arena. **Commissioner Ludwig** asked if they also share a bingo facility; **Mr. Beadle** said no, that is against the statute.

Commissioner Ludwig moved to adopt the staff's recommendation to approve Seattle Skating Club as a charitable organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Casey** seconded the motion. *Vote taken; motion carried with four aye votes.*

PETITION FOR DECLARATORY RULING

The Washington State Licensed Beverage Association, The Recreational Gaming Association, and The Washington State Bowling Proprietors Association.

Director Miller said that this item has been on the agenda for some time. He said that Rob Saucier is the spokesperson for these groups about this petition and he is present today. He said Bob Tull is the attorney for these groups and he wrote a memo, which is being handed out to the commissioners now.

Director Miller said he and some of the Commissioners have toured some of the licensee's establishments. Included in this tour was a trip to the Mars Hotel in Spokane during the weekend of the December Kalispel hearing. They looked at the Mars Hotel's card room and were quite impressed with the environment for the players, the way that it was being regulated, and the security that was in place. One of the issues that came up at the time of this petition and that was of concern to everyone touring the Mars Hotel was the issue of non-player bankers having a role in Washington Blackjack. This has been an issue for some time and is more of a concern today than the staff envisioned. The reason the licensees came forward with this petition was to create a player banked game. The staff had some concerns with the legality of player banking at the time.

Director Miller referred to the memo from Bob Tull on this issue. He said that he has asked Jon McCoy to give his view on the issue in light of this memo. The staff is faced with a dilemma and there are three options for resolution. One option is that the licensees are going to go forward and get house banking, which takes care of the non-player banker scenario. This option requires legislation and is not before the Commission. A second option is to allow a player banked game and give the money away so that the house gets nothing. This option could resolve the banking problem, but there is a question as to whether this option is within the agency's purview.

Resolution of this question will require the review of the Commission's assistant attorney general to see if there is any common ground. The third option is that, if this is not resolved, the old way will have to be reinstated, or it will have to be removed entirely, because there is a potential problem being created. It is important that this be resolved one way or the other by next month. If it's not resolved, they may want to pursue it in the legislature, and if it is resolved then it could be tried for the test period. It is a complicated issue because now there are players banking the games who don't play when they are banking the games. He said Jon McCoy will look this over and come back with an analysis and recommendation.

Commissioner McLaughlin asked that Mr. McCoy's memo be distributed to the commissioners before next month so they have time to look it over; **Mr. McCoy** said he would try to have it ready in time to distribute prior to the meeting. **Commissioner McLaughlin** said she likes to look at things for awhile.

Director Miller asked Mr. Saucier if he wanted to say anything.

Rob Saucier, WSLBA, RGA, and WSBPA, said it seems like this is the petition that won't go away because is groups keep continuing it over and over again. The main issue that came through is they know this is a player banking state and they are not trying to change that with the Commission. They have found a great alternative that gives the Commission, through its licensees, a greater regulatory role in banked games. Blackjack is the most common but it is not the only banked game in this state. For example, California is also a player banked state and has used this scheme because in some instances organized crime has come into the card rooms and become the bankers. It helps to protect the public, gives the Commission a greater regulatory role, and it certainly helps the licensees. In his discussions with the commissioners, all commissioners agreed to that, and the staff has agreed to that as well. The primary issue that came up back in August is whether or not this particular scheme is legal. In reviewing Mr. McCoy's opinion, the issue that came out in terms of the legality of the scheme is that a player supported bank does not meet the definition of a player according to statute.

However, the definition of a player is explicitly excluded by statute as it pertains to card rooms, so he feels that the definition does not apply in this instance. That gives the Commission the ability to come up with its own definition of player for card rooms. He said since the memo from Bob Tull was just given to the commissioners, his groups requests that the issue be postponed until the next Commission meeting. Between now and that time, he proposed that he and other representatives meet with Director Miller and his the staff to come up with a proposal for a regulatory framework that could either be attached as an amendment to the card room enhancement program contracts or proposed as a separate game, which is permitted under WAC rules, and then to present that proposal to the Commission for their review of what the framework would look like. At that time, the Commission would also have had the benefit of being able to review Mr. Tull's memo and Mr. McCoy's opinion.

Director Miller said he is concerned about spending any resources before finding out how the Commission feels about the issue. The petitioners are certainly free to submit any rules that they want, but he doesn't want to spend a lot of time to develop a program if it is not a viable one. He said he would be open for some direction from the Commission as to how they would like to proceed on this matter. He does not want to unilaterally go ahead on this.

Commissioner Ludwig said that some of the commissioners had a chance to visit the Mars Hotel while in Spokane for the November Commission meeting. They didn't see any problems with the Mars Hotel, but the problem was that with the player bank, there really isn't any control or regulation over the biggest participant in the game. House banking may be the better choice and will give better control, but the Commission can't authorize house banking, because that is up to the Legislature. The best that the Commission could do is to maybe work out some form of a test period. He said handling it that way would be better than ruling on the petition. **Mr. Saucier** said they had planned to withdraw the petition at the next meeting as to allow this to be incorporated into the test, provided that this scheme is determined to be legal. They'd like it included as part of the test, and then come back with proposed rule making to the Commission. **Commissioner Ludwig** said he thought there would probably be more questions about the issue and that it would be premature to rule on it at this stage. **Mr. Saucier** said that is why his organization would like to have at least a proposed framework so that the Commission can understand the concept of how this would work procedurally. His organization knows that everything will not be worked out in that time frame but there would at least be something in place.

Chairman Heavey said the Legislature is in session beginning Monday and asked if the legislation is already submitted; **Mr. Saucier** said this one isn't, but they have two other bills to be considered. One is a change to the definition of a player to include a card room participant and the second is a change to the social card game definition that will allow the licensee to act as the banker, not merely as the custodian. **Chairman Heavey** asked why they don't just have the Legislature decide about house banking; **Mr. Saucier** said this petition is not asking for house banking, but the group does intend to eventually ask for house banking through the Legislature. This petition asks for a modification of player banking. He said he wants to make sure the issues are kept separate. House banking means that licensees have a direct financial interest in the game; this petition simply says that licensees are the custodians.

Commissioner Casey said that's the same thing. It's just a way around something and she is not inclined to agree. She said she hasn't read the entire memo. **Director Miller** said that is the policy call the Commission must make. **Mr. Saucier** said no, it's not the same. He said that technically there is house banking now. The industry has those games now. The difference is that the person who is responsible for the funds is somebody who is unknown and unlicensed to this Commission. **Commissioner Casey** said she understands that and it is silly. The Commission could change that. **Mr. Saucier** said yes, the Commission could change that and take all those games away from the industry and go backwards, but that doesn't appear to be the intent of the Legislature. The Legislature tried to help the industry last year and the industry is going to ask them for more help this year. The reason that this group is not going to the Legislature and asking them about this issue is because they believe it has already been authorized with the bill that the group obtained last year.

Chairman Heavey suggested that they ask the Legislature to address this issue because it changes the nature of gambling in the state of Washington. **Commissioner Ludwig** said that, from the player's perspective, it wouldn't change the nature that much, but would give the Commission better regulatory supervision.

Chairman Heavey agreed. **Commissioner McLaughlin** said that, during the visit to the Mars Hotel, what concerned her was the woman who was banking a game but was sitting at a different table. She said that's not right. **Mr. McCoy** said he questions how that circumstance came about in the first place, because the deal is required to be rotated. In order for somebody to participate in the game, they've got to be at the table. **Mr. Saucier** said the bank is required to be rotated. **Director Miller** said there are center dealers now in Washington Blackjack, and they ask if anyone wants to bank this shoe, and if no one says yes, the banker stays the same. **Mr. McCoy** said the problem he has with that is they're not going to be a participant in the game. **Director Miller** said that arguably they're not, but legally, since they step aside and someone deals for them and banks for them, then they play when it's not their turn, so there's a dilemma. He referred to the three options for correcting this. He said this was not the intent or the desired result of what was intended by this test.

Commissioner McLaughlin said there was another man who was giving a woman the money, and who knows who gave him the money. **Mr. Saucier** said he knows of circumstances where people in the parking lot are handing out money to each person in their group and each person banks at a different table. Also, they noticed in the card room that when people started losing money, the bankers were going over and lending money to these people. He said he knows the Commission has a prohibition against extending credit by licensees, but since none of these people are licensed, there's no authority. Another answer could be to just get rid of it all, but that's not the direction the Legislature intended. **Director Miller** asked that if this issue cannot be resolved, wouldn't that force it back onto the Legislature to decide? He said if this type of game were eliminated and it went back to a mandatory rotation of the deal, and do away with center dealers in blackjack, that may put it back on the Legislature to decide. **Mr. Saucier** said he doesn't know how many card room operators could stay in business if a moratorium were put on this. He said he would be out of business if that were to happen.

Commissioner Ludwig said that is another concern he feels the Commission should not lose sight of. It is tough right now for various commercial licensees who are in close proximity to tribal casinos. If the Commission takes away what the card rooms are now doing presumably legally, then the Commission would be putting an end to some of their businesses.

Director Miller said he agreed that is the dilemma. The whole point of the test period was to give some flexibility and an opportunity to learn and build a better system. To date, the test has been very successful. He said the

Commission has great flexibility and the authority to determine the games, which was given by the Legislature under the statute. Unfortunately, what is being created is a blackjack game that wasn't historically one the staff was used to. That's why it was so important to bring this issue before the Commission today, because this issue has to be resolved one way or the other. The players are not the problem and the security is not the problem, it's this unlicensed entity that is maybe making more money than anyone else, which is contrary to what was intended.

Chairman Heavey said the bankers could be licensed by the Commission to serve as bankers. **Mr. Saucier** said then they would be house banking; **Director Miller** said they may be private bankers, not necessarily house bankers. Many of the players still bank. **Chairman Heavey** reiterated this is an issue to be addressed by the Legislature. **Mr. Saucier** said they have brought it before the Legislature and they said yes. Prior to that, they were prohibited from collecting or obtaining any of the fees. **Commissioner McLaughlin** said they left out a few words. **Mr. Saucier** said that, in their view, there is sufficient verbiage in the statute to allow this. **Director Miller** said it may allow the Commission to define or make the final choice, but it doesn't necessarily mandate the Commission to do anything. It just gives the Commission the desire to say "yea" or "nay". **Mr. Saucier** said that he agrees on that point. However, it clearly allows the Commission to have the authority to allow this activity.

Chairman Heavey said that what occurred was the group filed a petition, it became obvious under the literal reading of the statute that what they wanted to accomplish could not be accomplished through the petition, they spent three or four months searching through the statute and came up with what they thought was a way around it. If the Legislature addressed the issue, it would be easier to find. The Legislature should address the issue, however, as of this time they have not. He said he doesn't have a problem with people reading statutes to accomplish something, but they shouldn't say they're reading the statute in its literal sense when it's actually being read to avoid the plain language of the statute. This is done all the time. He said the Legislature did not intend to allow house banking when writing the statute.

Mr. Saucier said the industry is aware there is a problem and has proposed a solution to this problem. He said this group believes the Commission has the statutory authority to approve it and would like to present this in February and give an opportunity to have the legal arguments reviewed. If necessary, this group is willing to present oral legal arguments in February. The group is seeking a decision on whether this is put into the test and the petition for declaratory ruling is withdrawn or there is a ruling on the petition.

Chairman Heavey said he is unwilling to ask the staff to spend any time working on this problem before the assistant attorney general comes back with his determination as to whether this is allowed. The previous opinion of the assistant attorney general found in the packet states that, under literal reading of the statute, this is not permitted. **Mr. Saucier** pointed out that was an informal opinion; **Director Miller** said all the assistant attorney general opinions are informal opinions, which protects the assistant attorney general. **Director Miller** said if the group wants to submit information, that's fine, but until the Commission hears from its attorney, it could be a waste of resources for the staff to put time into this. They have enough to do.

Commissioner Casey said she needs to read Mr. Tull's memo, think about the issue, and hear what Mr. McCoy has to say. She doesn't necessarily agree with some of the arguments that she has just read, but she wouldn't want to say much more until the Commission's attorney advises them. **Chairman Heavey** asked if this should be continued; **Mr. Saucier** said that is what they are asking for. **Commissioner McLaughlin** said the group is asking for a continuance to work with the staff. She thinks the Commission should have Mr. McCoy's opinion before the Commission asks the staff to do anything. **Commissioner Casey** said she doesn't see any harm in keeping the petition alive and continuing the matter. **Chairman Heavey** said the matter would be continued until next month.

Director Miller asked that Mr. McCoy get the memo to the Commission a couple weeks in advance of the February meeting. **Mr. Saucier** asked that he be provided with the opinion when it is given to the staff; **Chairman Heavey** asked the Commission if they agree to send a copy to Mr. Saucier when it's available; the commissioners concurred a copy could be sent to Mr. Saucier.

Chairman Heavey asked if there was any other business, there was none. He called for an executive session to discuss pending cases and litigation and said there would be no more business following executive session. He adjourned the meeting.

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JANUARY 10, 1997

Chairman Heavey called the meeting to order at 9:30 a.m. at the Skamania Lodge, Stevenson, Washington. He introduced the WSGC the staff and Commission members present.

MEMBERS PRESENT: EDWARD HEAVEY, Chairman; CURTIS LUDWIG, Vice Chair; LIZ McLAUGHLIN, and KATHLEEN Q. CASEY.

OTHERS PRESENT: FRANK L. MILLER, Director;
BEN BISHOP, Deputy Director;
SHARON TOLTON, Assistant Director, Special Operations;
SHERRI WINSLOW, Assistant Director, Field Operations;
CALLY CASS-HEALY, Assistant Director, Licensing;
CARRIE TELLEFSON, Special Assistant, Public Affairs;
JONATHAN McCOY, Assistant Attorney General;
and SUSAN GREEN, Executive Assistant.

APPROVAL OF THE MINUTES FROM THE NOVEMBER 14-15, 1996, MEETINGS

Commissioner Ludwig moved to accept the minutes from the November 14-15, 1996, Commission meetings in Spokane, Washington, as set forth in the agenda packet; **Commissioner McLaughlin** seconded the motion. *Vote taken, motion carried with four aye votes.*

RULES

STARTING TIME FOR COMMISSION MEETINGS

Amendatory Section WAC 230-02-020 Time and place of meetings

Ms. Tellefson said this is an amendment to WAC 230-02-020 that changes the starting time for Commission meetings to 9:30 a.m. on a quarterly basis and then at the date and time that the Commission desires on the other months. The staff recommends final adoption. **Commissioner Ludwig** said it's important to note that no member of the public has made comments regarding this amendment so he's assuming there is no problem with the earlier start of the meetings.

Commissioner McLaughlin said she would like to change the wording so the specific time is not in the rule. This way, a chairman in the future may change the time back to 10:00 a.m. if they want to, without having to change a rule. She made the motion to leave out the time; **Commissioner Ludwig** seconded the motion.

Chairman Heavey called for the vote on the amendment. *Vote taken; motion carried with four aye votes.*

Chairman Heavey asked for any public comment, no one came forward.

Commissioner Ludwig moved to approve the rule change as amended; **Commissioner Casey** seconded the

motion. *Vote taken; motion carried with four aye votes.*

HEARINGS FOR SEIZURES OF SLOT MACHINES

New Section WAC 230-50-005

Seizures – Hearings

Ms. Tellefson said this rule is a new section that mirrors the practice that the Commission has always had, which is to hold hearings in the event that the Commission seize gambling devices. The only issue is whether the item seized is a gambling device and whether it is an antique. The staff recommends adoption of this rule.

Chairman Heavey asked for any public comment, no one came forward.

Commissioner Casey moved to adopt the rule. **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with four aye votes.*

BINGO AMENDMENTS

Amendatory Section WAC 230-20-240

Bingo equipment to be used

Amendatory Section WAC 230-20-247

Keno Bingo – Definitions and requirements

Ms. Tellefson said these two rules are on the agenda for further discussion with possible final action in February. One of the rules allows different types of bingo balls for speed bingo and the other rule is regarding keno bingo and requires that all winning cards and cash register receipts are kept. The staff recommends further discussion.

Commissioner McLaughlin asked that the staff bring an example of the bingo balls referred to in the rule change. **Director Miller** said that the staff would bring an example of the bingo balls that the rule refers to.

Chairman Heavey asked for any public comment, no one came forward.

PETITION TO AMEND RAFFLE RULE

Amendatory Section WAC 230-20-325

Manner of conducting a raffle

Ms. Tellefson said this is also on the agenda for further discussion with possible final action in February. It allows for raffle tickets to be sold for different prices in certain instances. The staff recommends further discussion.

Chairman Heavey asked what the wording, "Pre-proposal Statement of Inquiry (CR-101) under WSR #96-11-125..." means. **Ms. Tellefson** answered that is a form that the staff files with the Code Reviser's Office to inform the public that this rule is on the agenda for discussion.

Commissioner McLaughlin asked if this rule means that if someone sells a book of raffle tickets for a dollar a piece, then one ticket out of the book could be discounted and given to the seller. **Director Miller** explained that no, it is a book of tickets of, for example, 25 tickets. There are 25 latex squares covered on the front cover. The price for the tickets is normally a dollar, but the buyer scratches off a square and pays whatever price is under the square. It's a new way of selling the tickets. **Ms. Tellefson** said the rule needed to be changed because there is a prohibition on selling tickets at different prices. **Director Miller** suggested that a sample of this type of ticket be provided.

Chairman Heavey asked for any public comment, no one came forward.

COMMERCIAL AMUSEMENT GAMES PETITION

Washington Amusement and Music Operators Association (WAMOA)

Ms. Tellefson said this is a petition that involves eight rules proposed by the WAMOA. The group has been working with the WSGC the staff for many months. There are no rule summaries for this yet. It would change a variety of rules having to do with amusement games and the WSGC staff, at this point, recommends filing. There will be more information from the staff at the next meeting regarding a specific proposal and rule summaries.

Chairman Heavey said he glanced at the petition and saw one provision that defines preschool-age minors; he asked if there is a reason to amend that. **Ms. Tellefson** said the reason for that is to define what age preschool age is. **Chairman Heavey** said the way he read the rule before is that it says school age is anyone under the age of 18. He asked about ages zero to six and if they get to play these games, too. **Ms. Tellefson** said the minimum age is six, and they would come in with parents. **Director Miller** said there is a prohibition under statute. The WSGC the staff dropped the ball during a change in the staff members and everyone is working hard to finally bring these rules before the Commission. The problem is that there are some locations where children can't be there during school hours and some can as long as they are with their parents. This needs to be clarified to give local authorities more guidelines. **Commissioner Casey** moved to file the rule change for further discussion; **Commissioner Ludwig** seconded the motion.

Chairman Heavey called for public comments.

John Woodring, attorney for WAMOA, said the Association has worked with the Gambling Commission the staff on these rules for approximately two years and have met several times. He said they feel they have reached agreement on a majority of these rules. With regard to the minimum school age question, there is a problem with what the low end is; there's not a problem with children who don't go to school yet, but the definition is needed from a regulatory perspective so the Commission knows what age is school age. **Chairman Heavey** said some children begin kindergarten at the age of five. **Mr. Woodring** said they wouldn't be subject to the school age minor provisions in this particular instance. He said they're not concerned with getting five year olds in as opposed to six year olds, they just want to know what the threshold is.

There are a few issues they think are policy issues for the Commission to deal with. First, the rule regarding the expansion of exclusivity requirements. In the current rules, there's no ability for an amusement game operator to enter into an exclusive agreement with a location owner to place a game at that site. They would like to see limited modifications to allow for an exclusivity agreement for a period of up to three years and then be able to renew that at the discretion of the parties for an additional period of three years. In the amusement game industry now, the machines are very high cost, and if there isn't the protection of that machine being at the location for at least a certain period of time, they can't make a profit. Another issue they'd like addressed is the maximum wager, which they would like to see raised from 50 cents to \$1; and also the maximum prize from \$100 to \$500 at the cost of the operator. As far as the maximum wager goes, it is his understanding that, prior to the early 1990s, there was no maximum wager until it was later added to the rules. He said 50 cents is unrealistic now and they would like to see it raised to \$1. The value of prizes now is minimal and they want that raised as well. He introduced Steve Murphy to discuss the exclusivity aspect.

Steve Murphy, S & S Amusement, said that the reason they'd like to see an exclusive agreement of some type is because redemption machines, such as cranes, are about \$5,000 new, and some of them go up to \$15,000. If he puts ten machines in one location with \$150,000 invested, someone can come in the next month and put machines right beside his and then he can't get the return on the investment. They would like to be able to negotiate with the location and make sure they don't go broke.

Chairman Heavey asked if these would be non-mall locations, because at a mall they could work that into the

lease. **Mr. Murphy** said they have to send any contract to the Gambling Commission, and any contract that has exclusivity included will be rejected because that's not allowed. **Chairman Heavey** clarified that he now understands they don't have the same ability to negotiate with a mall in the same way a clothing store or jewelry store does. **Mr. Murphy** said they do a lot of business with bowling centers, and without an exclusive agreement, someone else can just walk in and put in another machine. Without some kind of protection, it can be pretty tough.

Commissioner Casey asked what the history is regarding the prohibition on exclusivity agreements. **Director Miller** said that, from day one, the reason has been to ensure that no one can force someone to put their gambling devices or pull tabs in "or else." In that environment, the non-exclusivity clause should remain. Amusement games need to be looked at differently because, although they are part of the gambling family, no one really ever expects to win. It has become sort of a marketing-type of game. They are treated a little bit differently. In the future, as new technology comes in with pull tab dispensers that will cost \$4,000-\$5,000 a piece, there will be manufacturers who want to make sure they sell their pull tabs, and this issue will need to be looked at in the future. In the amusement game setting, this change is a good compromise. **Commissioner Casey** asked if the Commission the staff would still be looking at these agreements. **Director Miller** said yes, and it gives them only a three-year period of exclusivity. **Commissioner Casey** said she's thinking of ways to keep a handle on it so these agreements don't get out of control.

Commissioner McLaughlin asked what protects the site holder. **Mr. Woodring** said it would be up to the operator and the site holder to negotiate a time frame. There is always a 60-day window to change the agreement and it would be up to the location to decide how long they would want the machine. **Director Miller** said this minimizes the risk a little bit because there is a lot of investment required to put these game in.

Mr. McCoy said there is a mistake that he is assuming is an oversight. He read from page six of the proposal, subsection three indicates, "the agreement may provide for an automatic renewal." However, in subsection four it says, "the agreement shall provide for an automatic renewal." He said he assumed that "shall" should read "may." **Mr. Woodring** said he would work with the staff to correct that.

Chairman Heavey asked if there are any further comments; **Mr. Woodring** said that on page ten, line nine, in subsection 2(c), it says "the operator provides change services in the immediate vicinity and discloses such to the player." They would like to see that expanded so the location owner can also provide change. Otherwise, they would have to put a change machine in with every machine they put at a location and they are expensive. **Director Miller** said the staff can work with him on that. **Chairman Heavey** asked for any public comment, no one came forward.

Commissioner McLaughlin moved to file the petition; **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with four aye votes.*

Chairman Heavey said these rules will be filed and put on the agenda next month for the beginning of the three month hearing process.

BINGO GIFT CERTIFICATES

Amendatory Section WAC 230-20-115 Gift certificates – requirements

Ms. Tellefson said the staff requests that this rule change be filed today for further discussion. This clarifies that gift certificates can be awarded as prizes up to four times per year. The staff recommends filing for further discussion.

Chairman Heavey asked for any public comment.

Greg Murray, president, WCCGA, said his group supports the filing of this rule. It would be helpful for the industry and help licensees be a little more competitive with the Native American games. **Commissioner Ludwig** asked what type of gift certificate this rule addresses. **John Beedle**, Seattle Junior Hockey, answered from the audience that it would be for all the activities in the bingo hall. **Commissioner Ludwig** asked why this would need to be limited; **Director Miller** answered that it ultimately becomes an expense. The industry is extremely competitive and a limitation equalizes the market. **Mr. Bishop** answered that the industry requested this because there was no limit in the original rule.

Commissioner Casey moved to file this rule for further discussion; **Commissioner Ludwig** seconded the motion. *Vote taken; motion carried with four aye votes.*

ADDENDUM TO THE AGENDA

CARD ROOM ENHANCEMENT CONTRACTS

Runlee, Inc. and TLR, Inc., La Center, Washington

Ms. Tellefson requested that the Commission take action on the card room enhancement contracts at this time. One contract is with Timmens Landing in La Center. They are asking for two additional tables and a rake on three tables. They have paid their deposit. The other contract is for the Carnival Room and they are asking for a rake on two tables. They have also paid their deposit. The staff is recommending approval of these card room contracts.

Chairman Heavey asked for any public comment, no one came forward.

Commissioner Casey moved for approval of the contracts. **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with four aye votes.*

COMMENTS FROM PUBLIC OR PUBLIC OFFICIALS OR BOTH/GENERAL DISCUSSION

Chairman Heavey asked if there is anyone in the audience who wants to bring any items forward at this time. No one from the audience came forward.

OTHER BUSINESS

LEGISLATIVE SESSION 1997

Director Miller said there are a few items to be aware of for the upcoming legislative session. There will be a proposal to amend the state Constitution to ban slot machines and gambling devices. Senator Heavey is the sponsor of that bill. The card room industry will have a clarification bill on the definition of a player in a social card game as well as a clarification bill on house banked blackjack. The staff will have bills to clarify the seizure statute and the professional gambling statute. There are two hearings scheduled next week to advise the committees as to what the staff is doing and what the status is of the industry. Normally, the staff briefs the Commission on a monthly basis during the session. Commission members will be contacted if any major issues come up.

Director Miller said the other piece of legislation would allow satellite bingo. It would allow the connecting of halls in the state to offer larger jackpots. The tribes presently operate a game called Mega Bingo, which is satellited out of the mid-west and tribes can connect for one or two games per session for a large jackpot. Charities would like to be able to do the same thing, but that requires a statutory change, which is why this bill is up before the Legislature.

Commissioner McLaughlin asked for clarification on the Constitutional amendment being sought by Senator

Heavey. **Director Miller** said there is a proposal to change the state Constitution to ban slot machines and gambling devices. **Chairman Heavey** said the first he heard of this proposed Constitutional amendment was when Director Miller informed him about it.

Commissioner Ludwig asked if Senator Heavey could brief the Commission at the next meeting, which is in Olympia, on this Constitutional amendment. **Director Miller** said the staff would ask Senator Heavey if he could brief the Commission at the next meeting.

Chairman Heavey adjourned the meeting.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant